REMARKS

Claims 1-33 are pending in the application.

Claims 1-33 stand rejected.

Claims 1, 10, 12, 15, 16, 18, 21, 22, 24, 27, 28, 30, and 33 have been amended. Applicant has amended these claims to clarify the subject matter of the claims as well as in the hope of progressing prosecution of these claims to allowance. Applicant respectfully submits that these amendments are not intended as an admission that the art cited against the various claims is prior and reserve the right to file a continuation patent application including the claims as originally filed in order to present arguments to that effect. Applicant further respectfully submits that unless specifically cited below, the claim amendments are merely added to provide clarity and are not intended to narrow the scope of the claims. Dependent Claims 12, 15, 18, 21, 24, 27, 30 and 33 are amended to provide consistent language to that in the amended independent claims from which they depend.

Rejection of Claims under 35 U.S.C. § 102

Claims 1-12, 15-18, 21-24 and 27-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Trimmer, et al., U.S. Patent Publication No. 2004/0111251 ("Trimmer").

Independent Claims 1, 10, 16, 22, and 28 have been amended to provide clarification as to the identification of the claimed primary and secondary storage units in order to further clarify that the primary and secondary storage units are not the same type of storage unit. Specifically, a secondary storage unit is claimed as configured to permit access to data stored on a removable storage media (e.g., wherein the media can be removed from the device accessing the media, such as a tape, an optical disk, a WORM disk, etc.). A primary storage unit is claimed as

configured to permit access to data stored on non-removable storage media (e.g., wherein the media is not typically removed from the device accessing the media, such as a hard disk drive). The Advisory Action suggests that the primary and secondary storage units can be the same type of storage unit (e.g., computer network disks labeled as element 52 of Trimmer Fig. 2 and storage devices associated with Trimmer's disclosed virtual tape library, elements 60 and 62). Applicant respectfully submits that throughout the Specification of the present Application support is found for differentiating the type of device represented by the primary storage unit and the secondary storage unit.

Independent Claim 10 has been further amended to clarify that the claimed "converting" is performed using a virtual device interface and that the secondary storage unit is accessed using that virtual device interface. Applicant respectfully submits that support is found for such amendments in the present Application's disclosure of virtual tape and virtual loader interfaces and the like. *See, e.g,* Application, ¶¶39, 43.

Applicant believes that the amendments to the claims place the independent claims, and all claims dependent therefrom, in condition for allowance and that therefore arguments related to the unpatentability of these claims raised by the Examiner in the Final Office Action and the Advisory Action are moot. Applicant does not, however, acquiesce in the arguments presented in the Office Action and therefore presents the following discussion in response to certain points raised by the Examiner in the Final Office Action and/or the Advisory Action.

As an initial matter, Applicant hereby incorporates by reference all prior discussion presented in prior responses to Office Actions in this matter related to the rejections presented by the Final Office Action and the Advisory Action.

Applicant further respectfully submits that the Final Office Action mischaracterizes Trimmer's emulation module when the Office Action suggests that the emulation model can access a physical storage device. *See* Final Office Action, p. 5. Trimmer clearly indicates that "the emulation module is configured so that it may translate the relevant DPA [data protection application] commands of a variety of DPAs to any number of formats that may be used by the particular VTL [virtual tape library]." Trimmer, ¶24. In describing Figure 1, Trimmer further discusses how the emulator emulates movements commands of a PTL "to trick the DPA into thinking it is dealing with a PTL [physical tape library]." *See* Trimmer, ¶25; *See also* Trimmer, ¶26 ("[T]he VTL does not actually perform the same tasks that a PTL would...the emulation module simply takes a note (in order to update the current state) that the virtual tape in question is now in drive 1, without actually having to perform any physical movement."). These passages of Trimmer establish that the disclosed emulation module is intended present the appearance of a physical tape library to an application, but in fact the application actually communicates through the emulator to a virtual tape library. Applicant respectfully submits that the only mention in Trimmer of placing data on a PTL is found at paragraph 29, in which "data copied to the VTL may be used to create actual physical tapes by playing back the data." This passage provides no disclosure that the emulator controls access to the tape drive in providing the data to the tape drive from the VTL. In fact, that same paragraph makes reference to the disclosure that preceded it which is related to the emulator either writing or reading data that had been written to the virtual tape library.

Finally, the cited section in the Final Office Action (Trimmer, ¶32) relates only to the emulator providing a subset of the commands a physical tape library might present to an application, wherein that subset is limited to those commands a given application might use (as

further illustrated in Trimmer, ¶34). Again, there is no mention of the emulator accessing a secondary storage unit such as a tape library, as claimed in the present invention.
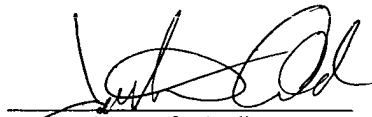
All of the independent claims contain a limitation of the form "said virtual device interface is coupled to control said primary storage unit and said secondary storage unit." *See, e.g.,* Claim 1. Given the above discussion, it is clear that Trimmer does not provide a virtual device interface that is configured to control a secondary storage unit, as claimed in the present invention.
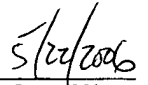
For at least these reasons, Applicant respectfully submits that independent Claims 1, 10, 16, 22, and 28, as amended, are in condition for allowance, as are all claims dependent therefrom, and Applicant respectfully requests an indication of the same.
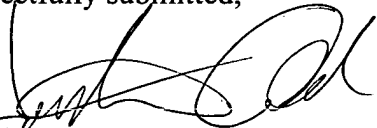
CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 22, 2006.

Attorney for Applicants Date of Signature

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